

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK  
BROOKLYN DIVISION  

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IN RE

ERICK GONZALEZ,

CHAPTER 13

CASE NO. 18-44118

DEBTOR.

JUDGE: Nancy Hershey Lord

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**AFFIRMATION IN FURTHER SUPPORT OF  
OBJECTION TO LOSS MITIGATION REQUEST**

Katherine Heidbrink, attorney for Seterus, Inc. as the authorized subservicer for Federal National Mortgage Association ("Fannie Mae"), a corporation organized and existing under the laws of the United States of America, affirms under penalty as follows:

1. I am a Bankruptcy Attorney with Shapiro, DiCaro & Barak, LLC, attorneys for Seterus, Inc. as the authorized subservicer for Federal National Mortgage Association ("Fannie Mae"), a corporation organized and existing under the laws of the United States of America ("Seterus"), and am familiar with the facts and circumstances surrounding this matter.
2. Seterus holds a mortgage on the Debtor's real property located at 534 47th Street, Brooklyn, NY 11220 (the "Property").
3. This Affirmation in Further Support (the "Affirmation") is submitted in reply to the Response to Bank's Objection to Debtor's Request for Loss Mitigation filed on August 23, 2018 by the Debtor (the "Response").
4. The Response avers that the Debtor's domestic partner Diana Morales will contribute to any mortgage modification that may occur, resulting in a gross monthly household income of approximately \$10,500 and an affordable modified payment.
5. However, in July 2018, shortly before the Debtor filed the instant Ch. 13 bankruptcy, Seterus gave the Debtor two good faith reviews for a loan modification, both of which resulted in denials. Copies of the denial letters are affixed to the Objection to Loss Mitigation filed on August 13, 2018.
6. Seterus' loan on the Property is a Fannie Mae loan. As such, July 2018 review included a review for the Fannie Mae Flex Modification, which requires a reduction of the Debtor's monthly

principal and interest payment. For more information, please see more at:

[https://www.fanniemae.com/content/fact\\_sheet/fanniemae-flex-modification-fact-sheet.pdf](https://www.fanniemae.com/content/fact_sheet/fanniemae-flex-modification-fact-sheet.pdf).

7. Seterus' July 2018 loan modification review also requested non-delegated review of the loan from Fannie Mae as an exception to the Fannie Mae Flex Modification denial. Said review also resulted in a denial.
8. The declined terms & amounts from the July 2018 review are as follows. The loan term was extended to 480 months. The pre-modification unpaid principal balance was \$449,159.01. The capitalized amount was \$296,866.05, inclusive of escrow advances, fees and costs, delinquent interest. The modified total loan amount was \$746,025.06. The interest rate was reduced from 6.25% to 4.625%. The modified principal & interest payment would increase from the current \$2,863.08 to \$3,425.27. The modified total monthly payment, inclusive of escrow, would increase from \$3,350.77 to \$4,151.66.
9. Since the Fannie Mae Flex Modification requires a monthly principal & interest payment reduction, which could not be achieved in July 2018, Ms. Morales' contribution will not change the outcome of that denial.
10. The Response implies that Ms. Morales' monthly contribution will cause approval of a modification in a Non-Delegated Review, due to alleged affordability. However, this is extremely unlikely for two reasons. First, the Response uses a total monthly payment of \$3,440.85, inclusive of escrow, which is unrealistically low. In July 2018, modified total monthly payment, inclusive of escrow, would have been \$4,151.66, and this amount is likely to have increased due to additional interest arrears since that time. Second, during the July 2018 review, Seterus already requested a Fannie Mae Non-Delegated Review. This loan modification review type allows for increased monthly payments as an exception. However, in this particular case, the exception request was denied just last month.
11. Since the Debtor was denied for all modification options during the month in which he filed bankruptcy, Seterus respectfully objects to loss mitigation on the grounds of duplicativeness and mootness.

**WHEREFORE** the undersigned respectfully requests the Court to deny the Debtor's Request for

Loss Mitigation; together with such other and further relief as may be just and proper.

Date: August 27, 2018

/s/ Katherine Heidbrink  
Katherine Heidbrink  
Bankruptcy Attorney  
Shapiro, DiCaro & Barak, LLC  
Attorneys for Seterus, Inc. as the authorized  
subservicer for Federal National Mortgage  
Association ("Fannie Mae"), a corporation organized  
and existing under the laws of the United States of  
America  
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**SHAPIRO, DICARO & BARAK, LLC**

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**Katherine Heidbrink**

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**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF NEW YORK     )  
                                      )ss:  
COUNTY OF SUFFOLK    )

I, Molly Miller, being sworn, say, I am not a party to this action; I am over 18 years of age, I  
reside in Suffolk County, New York.

On August 27, 2018 I served the within Affirmation in Further Support of Objection to Loss  
Mitigation Request upon:

TO: Debtor  
Erick Gonzalez  
534 47th Street  
Brooklyn, NY 11220

Attorney for Debtor  
Bruce Weiner  
Rosenberg, Musso & Weiner, LLP  
26 Court Street  
Suite 2211  
Brooklyn, NY 11242

Trustee  
Marianne DeRosa  
Standing Chapter 13 Trustee  
125 Jericho Tpke

Suite 105  
Jericho, NY 11753

U.S. Trustee  
U.S. Trustee  
U.S. Federal Office Building  
201 Varick Street, Room 1006  
New York, NY 10014

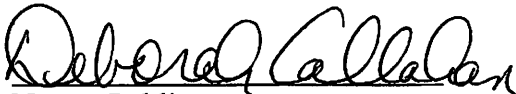
at the addresses designated by the foregoing individuals for that purpose by depositing a true copy of same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

Date: August 27, 2018



Molly Miller  
Bankruptcy Paralegal  
Shapiro, DiCaro & Barak, LLC  
Attorneys for Seterus, Inc. as the authorized  
subservicer for Federal National Mortgage  
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America  
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Fax: (631) 844-9525

Sworn to before me this  
27<sup>th</sup> day of August, 2018

  
Notary Public

DEBORAH CALLAHAN  
Notary Public, State of New York  
Registration No. 01-CA6278202  
Qualified in Suffolk County  
Commission Expires 3/18 20 21